

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
Civil Action No.: 3-08-MD-1976**

IN RE LENDING TREE, LLC
CUSTOMER DATA SECURITY
BREACH LITIGATION

APPLIES TO:

AMY BERCAW, RUSSELL
WINSETT, and TY WOODS, on behalf
of themselves and all others similarly
situated,

Plaintiffs,

v.

LENDINGTREE, LLC, a Delaware
limited liability company, NEWPORT
LENDING CORP., a California
corporation, SAGE CREDIT CO., a
California corporation, HOME LOAN
CONSULTANTS, INC., a California
corporation, CHAPMAN CAPITAL,
INC., a California corporation, and
SOUTHERN CALIFORNIA
MARKETING CORP., a California
corporation.

Defendants.

**MOTION FOR LEAVE TO FILE FIRST
AMENDED COMPLAINT**

Plaintiffs Amy Bercaw, Ty Woods and Russell Winsett ("Plaintiffs") hereby move the Court pursuant to Rule 15 of the Federal Rules of Civil Procedure, for an order granting leave to amend their Class Action Complaint ("Complaint") (The proposed amended complaint is attached hereto as Exhibit A.).¹ Plaintiffs respectfully request that

¹ The Complaint was filed on June 13, 2008, in the United States District Court, Central District of California. The Judicial Panel on Multidistrict Litigation designated this action for centralization in the Western District of North Carolina on October 7, 2008. No consolidated complaint has since been filed.

this Court grant leave to amend the Complaint to change the name of Defendant Newport Lending Corp. to Newport Lending Group, Inc.

Under Rule 15, leave to amend “shall be freely given when justice so requires.” Court should liberally grant leave to amend so long as amendment of the pleading does not cause bad faith, undue prejudice to the opposing party, or is not futile. *Island Creek Coal Company v. Lake Shore, Inc.*, 832 F.2d 274, 279 (4th Cir. 1987); *Sandcrest Outpatient Services v. Cumberland County Hospital Systems, Inc.*, 853 F.2d 1139, 1148-49 (4th Cir. 1988); *Foman v. Davis*, 371 U.S. 178, 182 (1962). Here, Plaintiffs seek leave to amend the Complaint to correct a mistakenly named Defendant and request that the Court change Newport Lending Corp. to Newport Lending Group, Inc. Such amendment would not cause undue prejudice to the other Defendants, is not sought in bad faith, and is not futile.

Accordingly, Plaintiffs respectfully request that the Court grant their Motion for Leave to File First Amended Complaint.

Dated: July 2, 2009

By: /s/ Gary W. Jackson
Gary W. Jackson

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CERTIFICATE OF SERVICE

I hereby certify that on July 2, 2009, I electronically filed the foregoing Motion for Leave to File First Amended Complaint with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all disclosed recipients.

This the 2nd day of July, 2009.

/s/Gary W. Jackson

Gary W. Jackson